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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING
CASPER DIVISION

THE TRIAL LAWYERS COLLEGE,
a nonprofit corporation

Plaintiff,

v.

GERRY SPENCES TRIAL
LAWYERS COLLEGE AT
THUNDERHEAD RANCH, a
nonprofit corporation, and GERALD
L. SPENCE, JOHN ZELBST, REX
PARRIS, JOSEPH H. LOW, KENT
SPENCE, JOHN JOYCE, and
DANIEL AMBROSE, individuals.

Defendants.

CIVIL ACTION NO. 1:20-cv-0080

JUDGE CARSON

MAGISTRATE JUDGE CARMAN

**TLC’S UNOPPOSED MOTION FOR
ALTERNATIVE SERVICE ON DEFENDANT JOHN JOYCE**

PLAINTIFF The Trial Lawyers College, (“Plaintiff” or “TLC”), pursuant to Federal Rule of Civil Procedure 4(e), moves the Court to allow alternative service of the Summons and Second Amended Complaint and associated exhibits in this action on Defendant John Joyce (“Joyce”). In support thereof, TLC avows the following:

1. Extensive efforts to serve Joyce by the standard methods of service authorized by Rule 4 of the Federal Rules of Civil Procedure have failed because it is believed that Joyce is intentionally avoiding service of process.

2. Pursuant to Federal Rule of Civil Procedure 45, TLC issued a subpoena *duces tecum* to Joyce in this action on September 11, 2020.

3. On September 11, 2020, September 13, 2020, September 14, 2020, September 16, 2020, and September 18, 2020, two private process servers attempted several times to serve the subpoena upon Joyce at one of his listed residential addresses of 73 East Lake Street, Apartment 2604, Chicago, Illinois 60601, to no avail.¹

4. On October 6, 2020, October 10, 2020, October 11, 2020, and October 12, 2020, a second private process server again attempted several times to serve the subpoena upon Joyce at one of his listed residential addresses of 73 East Lake Street, Apartment 2604, Chicago, Illinois 60601, to no avail. The server also attempted service at the following additional addresses connected to Joyce: 1923 South Canalport Avenue, Apartment 2R, Chicago, Illinois 60616; 5054 West Fulton Street, Apartment 1, Chicago, Illinois 60644; and 4157 North Plainfield Avenue, Chicago, Illinois 60634.²

¹ See Affidavit of LaSalle Process Servers L.P. attached as Exhibit A.

² See Affidavit of Jordan Alexander Scherer attached as Exhibit B.

5. TLC's Second Amended Verified Complaint, in which Joyce was added as a named Defendant, was filed into the record in this action on October 20, 2020.³

6. On October 20, 2020, a Summons in in this action was issued to Joyce.⁴

7. On November 13, 2020, November 14, 2020, November 16, 2020, and November 19, 2020, a private process server attempted several times to serve the Summons and Second Amended Complaint upon Joyce at a residential address that, upon information and belief, Joyce was using as a temporary residence at 226 N. Crescent Drive, Apartment 204, Beverly Hills, California 90210, to no avail.⁵

8. TLC has made strenuous efforts to effectuate service on Joyce.

9. Two process servers indicated that Joyce evaded service at his Chicago apartment. After observing movement inside of the apartment, one server called out to Joyce and slid his business card under the door but received no response.⁶

10. In another instance, TLC's private investigator conducted three isolated stakeouts at four-hour intervals. The investigator waited in different locations for Joyce's appearance at his apartment unit and surveyed eight stories of the apartment unit's garage in an attempt to locate Joyce's registered vehicles. After cross-referencing data related to Joyce, the investigator attempted service at Joyce's parents' registered address and an address belonging to an associate of Joyce, to no avail.⁷

³ Rec. Doc. 101.

⁴ *Id.*

⁵ See Affidavit of Jason Luther attached as Exhibit C.

⁶ See Exhibit A.

⁷ See Exhibit B.

11. As set forth herein, TLC has made good faith, practical and extensive efforts to locate and serve process upon Joyce via private process server.⁸

12. However, Joyce continues to evade service and refuses to submit himself to the jurisdiction of this Court.

13. Federal Rule of Civil Procedure 4(e)(1) directs that a plaintiff may serve a defendant in accordance with the rules of the state in which the district court sits or in which service is to be effected.

14. Here, the district court sits in the State of Wyoming and TLC requests that alternative service be effectuated in the State of Illinois.

15. In Wyoming, a court may exercise jurisdiction on any basis not inconsistent with the Wyoming or United States Constitution. When exercise of personal jurisdiction is authorized through this basis, a plaintiff may serve a defendant outside of the state according to the Wyoming Rules of Civil Procedure or any order of the court.⁹

16. In all cases where a Wyoming statute permits service outside the state, the plaintiff may obtain service by registered or certified mail upon the request of any party.¹⁰

17. In Illinois, if personal or domiciliary service is impractical, the plaintiff may move that the court enter an order directing a comparable method of service.¹¹ In such cases, an Illinois court may grant permission to obtain service in any manner consistent with due process, including certified mail.¹²

⁸ See Affidavit of Christopher K. Ralston attached as Exhibit D.

⁹ Wyo. Stat. Ann. § 5-1-107.

¹⁰ Wyo. R. Civ. P. 4(r)(2)(a).

¹¹ 735 ILCS 5/2-203.1.

¹² See, e.g., *United Gen Title Ins. Co. v. Tyler*, 2000-50453, 2001 U.S. Dist. LEXIS 5807, at *1–2, 7 (N.D. Ill. May 4, 2001).

18. Through this Motion, TLC proposes alternate means of service of process upon Joyce via certified mail.¹³

19. Service through certified mail to Joyce's last known residence is reasonably calculated to provide Joyce with notice of the proceedings against him.

20. On December 1, 2020, TLC's counsel conferred with Defendants' counsel Timothy Getzoff concerning this motion, and on December 2, 2020 Defendants indicated that they do not oppose this Motion.

WHEREFORE, TLC respectfully requests that the Court grant its motion and permit service to be attempted on Defendant John Joyce through certified mail to his last known residence at 73 E. Lake St. Apt. 2604, Chicago, IL 60601.

[SIGNATURE PAGE FOLLOWS]

¹³ See Wyo. R. Civ. P. 4(r)(2)(a) (permitting registered mail as a means of alternative personal service); *see also* *Donahue v. Probasco & Assocs., P.A.*, 2:18-cv-02344, 2019 U.S. Dist. LEXIS 15420, at *11 (D. Kans. Jan. 31, 2019) (granting a motion for alternative service using certified mail where state law permitted); *Glasener v. Farrell*, 14-621, 2014 U.S. Dist. LEXIS 200640, at *6-7 (D.N.M. Oct. 24, 2014) (granting a motion for alternative service using certified mail to the extent that state law allowed).

Respectfully submitted,

THE TRIAL LAWYERS COLLEGE

/s/ Christopher K. Ralston

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**ATTORNEYS FOR PLAINTIFF THE TRIAL
LAWYERS COLLEGE AND THIRD PARTY
DEFENDANTS JOHN SLOAN, MILTON
GRIMES, MAREN CHALOUPKA, JAMES
R. CLARY, JR., DANA COLE, AND ANNE
VALENTINE**

CERTIFICATE OF SERVICE AND CONFERRAL

I hereby certify that true and correct copies of the foregoing document and attachments have been served electronically by transmission to an electronic filing service provider for service through the Court's CM/ECF system to Defendants Gerry Spences Trial Lawyers College at the Thunderhead Ranch, Gerald L. Spence, John Zelbst, Rex Parris, Joseph H. Low, and Kent Spence, this 16th day of October, 2020. I further certify that a copy of the forgoing pleading has been sent to unrepresented parties Daniel Ambrose at 6245 Wilshire Blvd Apt 706, Los Angeles, CA 90048-5174 and John Joyce at 73 E. Lake Street Apt 2604, Chicago, IL 60601 via U.S. Mail or commercial courier. I further certify that on the December 1, 2020, I conferred with Defendants' counsel Timothy Getzoff, and on December 2, 2020 Defendants indicated that are unopposed to this Motion.

/s/ Christopher K. Ralston

Christopher K. Ralston